

CONSERVATION COMMISSION MEETING

AUGUST 3, 2015 CITY HALL AUDITORIUM, 62 FRIEND STREET, AMESBURY

Meeting began at 6:30 p.m.

Present: Kinsey Boehl, Alan Corey, Steve Langlois, Suzanne Egan

Absent: Michael Bik

Also present: John Lopez, Agent; Paul Bibaud, Recording Secretary.

MINUTES: None to review in hand.

ADMINISTRATIVE:

RDA – 21 Summer Street (Alphonse Sevigny)

Al Sevigny: This is a request for reconsideration for 21 Summer Street. I want to take down two trees, and I guess along with that, you want me to plant greenery. I'd like to omit the greenery. I'm 85 years and have enough to do mowing the lawn without planting more stuff to care for. I gave you alternatives to consider such as putting a sign there, more beneficial than planting some greenery or trees.

Steve Langlois: Was an arborist brought into determine if these trees are diseased?

Al Sevigny: Yes. They have Ash Orange disease. I am going to double cut...cut it how they have to drop them, then have them angle it for the slope of the river bank. The roots will remain intact.

John Lopez: If the ConCom accepts this, then you'd have to rescind the negative determination that was issued at the previous meeting, done through a vote. And you'd have to make another motion to just to allow the trees to be removed.

Al Sevigny: Again, I have no desire to do any planting.

John Lopez: The general practice of ConCom is to require a 2:1 replacement mitigation. Every tree taken down needs two trees to replace it, along with the approval of the ConCom. Only to as 50% survival rate: so if you plant two, you have at the end of 2 growing seasons that you have a 50% survival rate, meaning a 50% chance that one of the two will survive.

Al Sevigny: Why do you always have to be so straight forward in your ruling. I'm not going to plant. I don't believe you're right, but that's your business. I'm not going to plant. You just don't understand.

Motion was made to rescind a negative determination of applicability, conditioned to remove two trees with the installation of 4 winterberry. You have to rescind that.

Steve Langlois: It's already done. We don't have to do all that.

Motion made by Kinsey Boehl to deny or reject the request for proposal for reconsideration. Motion was seconded by Alan Corey. Three yes votes and Suzanne Egan abstains.

Enforcement Order – 21 Rocky Hill Road (Goodwin)

John Lopez: This would be an appropriate time to add this to tonight's agenda. This was issued today for 21 Rocky Hill Road. The property owner is present, per my request. The ConCom received this concerning the removal of vegetation with an excavator on land to bank, bank, possibly land subject to flooding. This is relevant to the rivers act, the state wetlands protection act, and the Amesbury Wetlands ordinance. We received this around 4:45 PM this afternoon. I'm asking the ConCom just to ratify this. The Enforcement Order calls for Mr. Goodwin, property owner responsible, to submit a letter to ConCom by August 10, stating that he understands the issues and he will comply. Also, by Aug. 10 to submit a letter to ConCom on letterhead from an environmental consultant, stating that they are retained by Mr. Goodwin and are conducting a review and draft a draft restoration plan, which would be due in time for the Aug. 31 meeting for review and approval by ConCom. I discussed immediate action with Mr. Goodwin. There is considerable amounts of exposed soils...

Mr. Goodwin: I already seeded it and put out hay bales.

John Lopez: We discussed yesterday installing hay bales, and raking this by hand, and planting grass and watering it in an effort to get something growing there before a big rainstorm and redoing everything into the river. He's replied to all my requests and is here tonight.

Motion was made by Alan Corey to approve the enforcement order. Motion was seconded by Suzanne Egan. AIF.

Enforcement Order – 68 Lake Attitash Road (Hallsiey)

John Lopez: When the project was approved at the previous meeting, there is a 21 day period in which the Order of Conditions can be issued. Following that there is a 10 day appeal period. However, the applicant was so anxious to install her dock that she did it the next day. So legally she installed her dock without a valid Order of Conditions, but the odd thing is her project was approved. I issued the Enforcement Order, asking her to attend tonight's meeting. ConCom can take it from there. The OoC was issued Thursday of last week, along with the Enforcement Order. I consulted with DEP on this and they said " why did she do this?" Procedurally, I have to issue an Enforcement Order. The ConCom can decide what to do at any time. But due diligence has to be followed. So it is 21 days from the date of approval, which was Aug. 3, so I have 21 days to issue it from Aug. 3 and then following the issuance date, there is a ten day appeal period. It should be noted that no work on the bank has been started. So leave the dock in for now. Just a vote now is needed, acknowledging that we heard all this, and to rescind the Enforcement order.

Motion was made by Kinsey Boehl that we heard Mrs. Hallsiey at 68 Lake Attitash Road and make a motion to rescind the enforcement order. Motion was seconded by Alan Corey. AIF.

19 Evans Place, Amanda Lane Realty Trust, Ma. Quitclaim Deed (Saba)

John Lopez: This is in support of a OoC approving the construction of a subdivision at 19 Evans Place. As part of the approval, the applicant proposed to transfer a parcel of land to the city. The applicant has a Quitclaim Deed that he would like signed, however I've been told procedurally, that we cannot do that. It has to go through the municipal council, then the mayor, then it comes to us. However, at this point, ConCom can entertain the request to show support for the acceptance of the Quitclaim deed, through a vote, drafting a letter to the municipal council

supporting it. This has already been approved as part of the OoC. The applicant is simply following through on his legal obligations. He's been informed of this, but he is going to request that ConCom give a show of support for this.

Motion was made by Alan Corey to vote to support the Quitclaim Deed 19 Evans Place and to send a letter drafted by John to the council stating that ConCom has voted to support this and request that Municipal council do so as well. So moved by Alan Corey. Motion was seconded by Kinsey Boehl. AIF.

Request For Conceptual Review- 5 Merrill Street (Linden)

John Lopez: This conceptual phase request comes in advance of a pending NOI for the construction of a single family house on Merrill Street, a portion of which would be riverfront. Riverfront to the salt marsh that is also the subject in the Toth site. I met with the property owner a month ago and reviewed regulations. I mentioned that ConCom is often receptive to a conceptual phase review. I've taken the liberty of soliciting a proposal from Mill River Consulting, which ConCom is in receipt of. It is strictly voluntary. It does not negate a NOI review. Once the NOI is submitted per the open meeting law. The applicant is here to make the request.

Jack Sullivan, engineer for the project. The architect is Joel Gagnon and he is here, and the land owner is Christine Linden. As John stated, we met with John before him. Christine is looking to build a single family home, with a paved driveway, install an inground pool, a patio, and a cabana. This is over a 2 acre parcel of land. There was an ORAD established for the BVW and riverfront areas for this project by a previous applicant probably 5-6 years ago, so it is still in force because of the permit extension act.

So this is preliminary, you can see from the coloring in the rendering that Joel just handed out. There will be no work within 100 feet of the riverfront, and about 50 trees to come down, 6 inches or greater, within the 100 to 200 foot riverfront area. A 2:1 replacement would be difficult to do on this site. We could probably do a 1:1 replacement and offer some other forms of mitigation, like rain gardens or rain water capture system for the roof area, for irrigation purposes, etc. If we could do trees, shrubs, etc. we could possibly come close to a 2:1 replacement ration. We know this is a sensitive area and wanted to get your input before we do too much and do the NOI phase. The body of water is a salt marsh that empties into the Merrimac River.

John Lopez: I selected Mill River as a proposal because Mill River is also doing a peer review on the Toth project parcel across the creek from the salt marsh, so they will already be most familiar with that area, so it makes sense. Mill River gave me a proposal of about \$500 for a conceptual phase. Again, this is strictly voluntary on the applicant's part. The purpose here is just to identify any outstanding issues. They can incorporate those issues into the NOI once it is submitted, and this does not negate a formal NOI review once the NOI is submitted.

Motion was made by Kinsey Boehl to approve the choice of Mill River Consulting as review of the conceptual phase. Motion was seconded by Suzanne Egan. Vote was AIF.

Enforcement Order – 56 South Hunt Road, Tough Mudder. Final Restoration Plan

John Lopez: Last summer, we had a series of mishaps concerning the Amesbury Sports Park which resulted in the issuance of two Enforcement Orders. The applicant's representative is here to update the ConCom on the implementation of the approved restoration plan and I believe to see if ConCom is receptive to bringing this to closure.

APPROVED

Ann Martin, LEC Environmental: I was last here in March when we reported to you on backfilling excavations. In March, we brought you the restoration plan to complete the project, which you approved at that hearing. In June we completed the work. There was some slumping in the holes, so they came in to smooth out the area a bit more. Then we used the same method we used to locate off of aerial GPS where the prior streams were, and supervised the contractor excavating the streams and then he seeded the area then mulched it. Three days later after project completion, it rained a little over 1.5 inches, which worried us. We did a follow up visit and all of the water coming off the slope flowed within the channels and into the ditch that they were connected to, and there was no washout or anything from the rainfall. The area is still dry today and stable.

Motion was made by Suzanne Egan that all work has been completed and we should lift the enforcement order since it no longer applies and all requests have been complied with.

Motion was seconded by Alan Corey. Vote was all in favor.

Lake Attitash Association Update (Roberts)

No one was present to give this update.

CONTINUED BUSINESS:

NOI (002-1096) 127 Kimball Road (Scimone) Continued to Aug. 31 meeting.

NOI (002-1088) Old Merrill Street (Toth) Continued to Sept. 21 meeting.

Request To Amend Order of Conditions (002-1111) 60 Merrimac Street (David)

John Lopez: This is in support of a request to amend the OoC for the Hat Factory, 60 Merrimac Street. ConCom will recall that there was discussion re: monitoring language. ConCom will recall there also was discussion about selection of a monitor. The applicant has submitted some draft language to better define the monitoring period. Also, ConCom asked me to solicit a monitoring proposal from Mr. Bob Prokop. I've done that, and Mr. Prokop is here tonight to address ConCom, and I will allow the applicant to brief ConCom.

Charlie Weir, Meridien Associates: We reviewed the proposal. Larry Smith, the applicant, is here tonight. We were pleased to see that. We'd prefer to go with Mr. Prokop. There is a very minor change we propose for condition #12, asking to clarify more distinctly when we would go into reports quarterly instead of weekly, stating that it was during non-active construction periods. The proposed language clarification better defines the monitoring period, and is written this way: It really is to just change the last sentence. Right now it reads "the environmental monitor shall submit weekly monitoring reports to ConCom during the preconstruction and construction phase of the approved work, and quarterly monitoring reports during the post construction period." We would prefer it to read, "the environmental monitor shall submit weekly monitor reports to ConCom during the preconstruction and after site construction phase of the approved work, and quarterly monitoring reports during the non active site construction phase, including winter months if non active." A subtle change but more clear.

Motion was made by Suzanne Egan to change the monitoring frequency in the last sentence, and to approve the choice of Mr. Prokop as the enviromental monitor and provide recommendations to the Agent who will make the determination as to whether activity is taking place on the site. Motion was seconded by Kinsey Boehl. AIF.

APPROVED

Motion made by Kinsey Boehl to change in the environmental monitoring plan to change the wetland monitor to wetland consulting services. Motion was seconded by Alan Corey. AIF.

Motion to close the hearing was made by Suzanne Egan. Motion was seconded by Kinsey Boehl. Vote was unanimous.

NEW BUSINESS:

RCoC – 20 Cedar Street- Briggs Mill (Chinburg Properties)

John Lopez: I request that this be continued to Aug. 31. The OoC states that the as-built plans will be reviewed by a consultant for verification. Mary Rimmer from Rimmer Environmental was the consultant hired to review the NOI. Because she is most familiar with the project, she would be an appropriate reviewer of the as-built plans to ensure that the work was done in compliance. So I request that this be continued to Aug. 31 and that Rimmer Environmental be selected to review as built plans, or anyone else the ConCom feels.

Motion was made by Suzanne Egan to continue this to Aug. 31. Motion was seconded by Kinsey Boehl.

Motion was made by Kinsey Boehl to approve Rimmer Environmental as the environmental consultant. Motion was seconded by Alan Corey. AIF.

RCoC – 208 Main Street (Kopelman)

Alisa Koppelman, owner. (Mrs. Nick Cracknell)

The applicant was a mere 4 feet from the recorder since this writer moved the podium next to where the tethered recorder sits. She still was completely inaudible and the recorder barely picked up an inaudible whisper, despite numerous reminders to speak up prior to her taking the podium.

John Lopez: This project pre-dates me, and I wasn't quite certain what was done by looking at this plan, which shows a detention basin, it shows unit B, unit C, it shows wetlands. I couldn't determine what it was that was approved. I am assuming it was the detention basin, and if that is the case, Mr. Hargreaves has stated that the work was done in substantial compliance with the approved project. When dealing with an OoC that is so old, you always run the risk of wondering if there was anything else done by someone that was NOT approved. Was an addition to any of the structures put on? I have no reason to believe something either way.

Steve Langlois: And Mr. Hargreaves is?

John Lopez: He is a professional engineer.

Motion was made by Suzanne Egan to issue a Certificate of Compliance. Motion was seconded by Alan Corey. AIF.

RDA – 18 Lake Attitash Road (Desesa)

John Lopez: This is a request in support of a removal of two mature white pine trees, approximately 20-25 feet from Lake Attitash, as well as the removal of a brick sidewalk on the side of the house, and installation of grass in its place. We have photos that the applicant has brought. Pictures of the trees, which are pretty big.

Suzanne Egan: Do you have a proposed planting plan, or anything to replace those?

Mrs. Desesa: inaudible 4 feet from the recorder...too soft spoken.

Suzanne Egan: So you've heard earlier tonight of the commission's 2:1 mitigation plan. What we're supposed to do is protect that area, because it is a jurisdictional area. So something else needs to be planted there. Because if it's just grass, it doesn't serve the same purpose as shrubs or trees that are to be taken down. We need to make sure there is no net damage to that area. So if you take down four trees, you need to plant 8 new trees. Or you could work with a landscaper to come up with a landscaping plan and submit it back to us for review, as opposed to just putting in three trees, or shrubs or bushes...things that stabilize the soil better than just grass.

Steve Langlois: Do you have any problems with erosion? When it rains? (no).

Alan Corey: My opinion is that these trees are endangering her house. But I do think we should require some kind of shrub or a replacement trees, something that would retain the water. Sod is not enough. We have a list of approved bushes/shrubs that could be put in.

Kinsey Boehl: Do you have the opinion of an arborist?

John Lopez: There is a company letter from the arborist. It should be noted that the arborist's legal authority only extends to city property.

All of Ms. Desesa's comments are inaudible.

Steve Langlois: I'd just like to see in writing what is going to be done, once the trees are down. You're leaving stumps. Then you are going to sod. So, if Ms. Desesa is putting in sod, is there a boiler plate paper that we give them about fertilization?

John Lopez: I believe the ConCom was headed toward requiring some sort of mitigation in the form of shrubs. But once ConCom reaches it's decision, because this is an RDA, its a relatively simple proposal, it could be conditioned that, like all standard approved projects, nitrogen (less than 5% nitrogen fertilizer) no herbicides, no pesticides within 100 feet of the water...things like that.

Suzanne Egan: But we would need those things before us, we can't really make a vote tonight if there is no mitigation plan submitted along with this. The ConCom's purpose is to protect the jurisdictional areas. That's what we look at and how we can do that.

Kinsey Boehl: Is there going to be anything left, after you're done cutting? Are you leaving any trees?

Ms. Desesa: Inaudible.

Alan Corey: Upon reading the report of the arborist, he says that the pines are kind of dangerous, but he recommends that the maple and the oak be pruned, as opposed to being taken out.

Steve Langlois: The one's closest to the house he wants pruned? So basically he wants to take down any branches that pose any danger to the house. Whereas the tree that is the biggest tree could come down with snow load, might not. Usually if boughs come down, the whole tree... maybe a microburst or something. Why don't we do this: I suggest that if you just come back with what you are going to plant for trees, what you are going to do about the turf, and maybe say we'd like to see the turf in the spring, go out and see it or a photo of it, we want that land not to erode. But we would need the trees to be picked...

John Lopez: I think what ConCom is looking for is a proposed mitigation plan that calls for the removal of the trees, but also something to take its place at a ratio of 2:1 whether they be trees or native non-hybridized plants appropriate for a wetland area, such as winterberry.

Suzanne Egan: But we also a question around the fact that only two of the trees should come down. That is before us, on the record.

Kinsey Boehl: The dead wood should be cut. We could go with the recommendation of the arborist, at a minimum, including the planting.

APPROVED

Suzanne Egan: I think it would be helpful if you came back with that.

Alan Corey: And taking down just the pines and pruning the other trees, if they are healthy.

Ms. Desesa: Inaudible.

Alan Corey: Because the arborist said he's concerned about "a small hollow area in the trunk of the maple. It shows there is decay within the tree, but to what extent, I cannot say." He says both the maple and the oak should be pruned.

Steve Langlois: Maybe a second opinion would be appropriate. We can't accept this arborist's opinion because he is a city employee. I'd suggest getting another opinion from an arborist. I can't give permission to take trees down unless we know what is going on with them.

John Lopez: Well, he is a certified arborist, we can accept his opinion.

Kinsey Boehl: It doesn't seem very clear which trees are coming and going.

Motion was made by Kinsey Boehl to continue this hearing to Aug. 31 and come back with a plan with more detail, what comes and what is going, get another certified arborist to come look at them and get his opinion, come back and explain and prepare for a 2:1 mitigation plan, whether trees, shrubs, bushes, etc.

Motion was seconded by Alan Corey. Vote was unanimous.

RDA – 17 Lake Shore Drive (Francis, c/o DC Wood Services)

John Lopez: This is for the proposed removal of a number of trees right next door to the previous applicant.

Charles Kamon, owner of DC WOOD SERVICES: Inaudible in total.

Steve Langlois: He has a certified arborist's letter, just submitted right now.

Suzanne Egan: But is there any plan, or site plan, submitted along with this, or any mitigation plan?

Charles Kamon: Inaudible.

Motion was made by Suzanne Egan to continue this hearing to Aug. 31 and for the applicant to submit to us a mitigation plan and a site plan so we can actually see what is going on, as well as more detail with specific locations, etc. Motion was seconded by Kinsey Boehl. AIF.

RDA – RR Riverfront Drive- Tree Removal, City of Amesbury/DPW

John Lopez: This is for the removal of four trees on Pleasant Valley Road on town property.

Alan Corey recuses himself from this hearing, as an abutter.

Rob Desmarais, DPW Director: Rob was inaudible throughout.

Basically, Rob requests an RDA in support of the removal of four trees on town property on Pleasant Valley Road. Rob will then return before ConCom for an NOI to deal with several more matters not as urgent as these four trees, but needing to be addressed asap in the near future.

Motion was made by Kinsey Boehl to approve a negative determination on this RDA conditioned to an NOI management plan and mitigation plan for the rest of the issues to be addressed asap, and continue this hearing to Nov. 2. Motion was seconded by Suzanne Egan. Vote was 3 commissioners in favor with Commissioner Corey recusing himself as an abutter.

Request for Extension of Order of Conditions (002-1032) 284 Elm Street, Retail (Sears)

John Lopez: This requests an extension to an OoC issued by the commission 3 years ago for the retail outlet on Elm Street, abutting the current hotel site being built. The complexity here is that the retail space has not yet started work, but there was an approved mitigation plan that is to be implemented prior to and concurrent with various phases of construction. This mitigation plan was on both parcel. An extension to the OoC was granted several months ago by the ConCom for the hotel. Now the applicant is here requesting the same for the retail. If the extension were not to be granted, then the entire project would have to come to a halt, because the mitigation plan on both pieces of property is required to proceed prior to further construction.

Suzanne Egan: So the only thing happening on this piece of property is the mitigation?

John Lopez: Correct. Now, the ConCom always has the option of ...the request was for an extension for three years. ConCom can always extend this to whatever time period it likes. They anticipate completing the project in 2019. This project went through PLB and ConCom review for three years.

Suzanne Egan: So correct me if I'm wrong: since this is the mitigation plan, the longer we extend the OoC, the longer we have jurisdiction over the compliance with the mitigation.

John Lopez: Correct. And if the ConCom were to extend this plan for a year, I would anticipate the applicant would have to come back in a year, assuming they also want to begin construction on the retail outlet.

Suzanne Egan: But do we need this OoC in order for the hotel's project to be in compliance? (John= yes). So this should be concurrent with that ?

John Lopez: Correct. In my opinion, the applicant was remiss in not requesting the extension in May, when the hotel...

Suzanne Egan: Motion for this to run concurrent with the hotel part, three years.

Alan Corey: I second that motion. Vote was unanimous.

NOI (002-1126) 23 Clinton Street (Schuck)

John Lopez: This is a proposal to demolish an existing single family home and build a new structure within the same footprint. Jurisdictional areas would include riverfront.

Matt Stinell, Meridian Engineering, representing Ms. Schuck: She purchased this property the end of May. The house is in considerable disrepair, and the property is overgrown. The applicant wants to build in the exact same footprint, with the minor addition of a deck on the back. .

(much of this speaker's dialogue was muffled and inaudible)

Motion was made by Suzanne Egan for a peer review to be performed by Mill River and a full review pursuant to the act and the ordinance, and to continue this hearing to September 21. Motion was seconded by Alan Corey. AIF.

NOI (002-1117) 60 Pleasant Valley Road- (Corey) (Commissioner Corey recuses himself since he is the applicant)

John Lopez: This is a NOI in support of a proposed installation of a dock 200 feet into the Merrimac River. The outstanding issue here was the type of anchor the dock would include. This is subject to the Mass. Endangered Species Act Review, went through said review, endangered species people requested a specific type of anchorage, which the applicant has proposed. He's amended and re-proposed his submitted plans, which were forwarded to the Endangered Species

A P P R O V E D

people at Fish and Wildlife. They responded acknowledging support and approval of the dock, and I will leave the rest to the applicant to brief the ConCom.

Alan Corey, applicant: (very muffled and inaudible).

Motion was made by Kinsey Boehl to approve the dock installation at 60 Pleasant Valley Road, per the recommendations but include in the work conditions the recommendations from the Division of Fisheries and Wildlife dated June 4, 2015 to the applicant for helical coil installation (conservation moorings) and approve the plan as amended. Motion was seconded by Suzanne Egan. AIF.

Motion to close this hearing was made by Kinsey Boehl and seconded by Suzanne Egan. All in favor.

BILL PAYMENTS:

BSC Group, Invoice #9123980, Locke Hill Lane – NOI Peer Review - \$2788.90

Kinsey Boehl made motion to pay bill. Second by Suzanne Egan. AIF.

BSC Group, Invoice # 9123978, 282-284 Elm Street- NOI Construction Monitoring. \$3298.30

Kinsey Boehl made motion to pay bill. Second by Suzanne Egan. AIF.

BSC Group, Invoice # 9123979, 60 Merrimac Street – NOI Review \$125.00

Kinsey Boehl made motion to pay bill. Second by Suzanne Egan. AIF.

Motion to adjourn by Suzanne Egan. Motion was seconded by Alan Corey. AIF.

Meeting adjourned at 8:58 P.M.